

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 18,268
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals an "Administrative Review Decision" of the Office of Child Support Enforcement (OCS). The preliminary issue is whether the petitioner's grievance is properly before the Human Services Board and whether the Board has jurisdiction to consider it.

DISCUSSION

The petitioner is a resident of the state of Georgia. He has filed extensive written documentation and argument with the Board. He and the OCS attorney have also participated in telephone status conferences with the hearing officer.

The following facts do not appear to be in dispute. The petitioner and his ex-wife were divorced in New York State. There is an outstanding order of child support against the petitioner issued by a New York court on January 19, 2001. That order provides for periodic review and adjustment of the amount of child support if conditions warrant. Sometime

thereafter, the petitioner's ex-wife moved to Vermont and the petitioner moved to Georgia.

When the petitioner's ex-wife moved to Vermont she requested the assistance of Vermont OCS in collecting her child support. OCS has assisted the petitioner's ex-wife in "registering" the New York divorce order in Georgia. It appears that an action has been filed in Georgia (presumably by OCS's counterpart in that state) against the petitioner for enforcement of the New York decree. The petitioner alleges that the State of New York is pursuing a duplicative effort to enforce the underlying decree.

OCS maintains that it has had no other involvement in any proceedings in either New York or Georgia. The petitioner wants the Human Service Board to order OCS to "cease enforcement of the New York Order". The petitioner appears to claim that the actions by OCS in the matter violate federal and state law and that OCS's attorneys have acted unethically and in violation of his due process rights. There is no claim or indication that the petitioner is not free to raise these issues, or any other defense he wishes, in the action that is now pending (or in any future action) in Georgia.

ORDER

The petitioner's appeal is dismissed for lack of subject matter jurisdiction.

REASONS

Several statutes govern child support establishment and collection in the state of Vermont. See 15 V.S.A. Chapter 11. The Board has held that it has jurisdiction over OCS administrative decisions only in very limited cases. See Fair Hearing Nos. 16,055 and 17,895. These cases are largely limited to the jurisdictional mandate found in the statute governing Board decisions that reads, in pertinent part, as follows:

An applicant for or a recipient of assistance, benefits or social services from . . . the office of child support . . . may file a request for a hearing with the human services board. An opportunity for a hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his . . . receipt of assistance, benefits, or services . . . or because the individual is aggrieved by agency policy as it affects his or her situation.

3 V.S.A. 3091(d)

OCS's own regulations describe appeals to the Human Services Board as "general grievances" and give as examples a delay or failure to receive a support allocation or an

improper distribution of support to recipients of OCS services. See OCS Regulations 2802 and 2802A.

In this matter, the petitioner is the noncustodial parent from whom support is being sought by the State of Georgia pursuant to OCS "registering" a New York divorce decree in Georgia on behalf of the petitioner's ex-wife, who is now a resident of Vermont. The petitioner's ex-wife and children are the recipients of benefits or services from OCS. Even if the petitioner is correct that OCS or the State of New York has acted unlawfully or unethically in the matter, the Board has no subject matter jurisdiction over these types of grievances. At this point, they are issues that can only be considered and resolved by the court with subject matter jurisdiction over the underlying action, which in this case is Georgia. Constitutional and procedural violation claims do not exist in a vacuum. The Board's consideration of such claims by a noncustodial parent was not the intention of the Vermont legislature when it created the two jurisdictional paths. Nor is it consistent with the federal Uniform Interstate Family Support Act. See 15B V.S.A. §§ 101 *et seq.* Therefore, the petitioner's appeal should be dismissed.

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